

NEBRASKA ADMINISTRATIVE CODE

TITLE 440

ADDRESS CONFIDENTIALITY ACT REGULATIONS Nebraska Secretary of State

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Chapter 1. Definitions.

001. “Act” shall mean Neb. Rev. Stat. §§42-1201 through 42-1210.

002. “Address Confidentiality Program” shall mean the statutorily created program responsible for implementing the provisions of Neb. Rev. Stat. §§42-1201 through 42-1210, within the Office of the Secretary of State.

003. “Agency or Governmental Entity” shall mean an office, department, division, bureau, board, commission, or other statutory unit of state or local government or any functional subdivision of that agency.

004. “Authorization code” shall mean a number unique to each participant of the Address Confidentiality Program, assigned by the Secretary of State.

005. “Authorized personnel” shall mean an employee of the Secretary of State, County Clerk, or Election Commissioner who has been designated by the chief executive officer of the respective agency to process and have access to voter application and voting records pertaining to program participants.

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006. “Participant or program participant” shall mean an individual certified to participate in the Address Confidentiality Program.

007. “Protected records voter” shall mean a program participant who is registered and qualified to vote and has requested an absentee ballot pursuant to Neb. Rev. Stat. §42-1207 and will vote in the same manner as an absentee voter.

008. “Record” shall mean any information relating to the conduct or performance of a governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

009. “Secretary” shall mean the Secretary of State.

010. “Substitute mailing address” means the mailing address designated by the Secretary of State which shall not be the program participant’s residential address as documented on her or his application for program participation.

Annotation: Neb. Rev. Stat. §§42-1201 through 42-1210.

Chapter 2. Application and Certification Process.

001. Any person who meets the criteria to be a program participant under Neb. Rev. Stat. §42-1204, and wishes to apply to the Address Confidentiality Program shall obtain an application to be included in the program. The applications shall be obtained from selected state or local agencies, or non-profit programs that have been designated by the Secretary to assist in the application process pursuant to Neb. Rev. Stat. §42-1209.

002. The following shall be included in the certification application submitted by the applicant to the Office of the Secretary of State.

002.01 A sworn statement that the applicant or the minor or incapacitated person on whose behalf the application is made is a victim of abuse, sexual assault or stalking and that the applicant fears for his or her safety or the safety of the minor or incapacitated person on whose behalf the application is made.

002.02 A designation of the Secretary of State as agent for the purposes of service of process and receipt of mail.

002.03 The address the applicant requests not be disclosed.

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002.04 The mailing address and telephone number or numbers where the applicant can be contacted by the Secretary of State.

003. The program applicant shall provide all the information required on the certification application and date and sign the form.

004. The application shall be signed by any individual or representative of any office designated in writing under Neb. Rev. Stat. §42-1209 who assisted in the preparation of the application.

004.01 The Secretary of State's Office shall create and maintain a list of designated state and local agencies and nonprofit entities that provide counseling and shelter services to victims of abuse, sexual assault, or stalking which may provide application materials and assist in the completion of such application. Such list shall be available for public inspection in the office of the Secretary of State during regular business hours.

005. An individual who has filed a properly completed application with the Office of the Secretary of State shall be certified as a program participant and issued a program participant authorization card. The authorization card shall include the program participant's name, authorization code, substitute mailing address, certification expiration date, and applicant's signature.

006. A properly completed application shall be effective on the day it is received by the Address Confidentiality Program.

007. The application and sworn statement referred to in this section shall be made available to all program applicants and shall be incorporated by reference into these rules and regulations.

Annotation: Neb. Rev. Stat. §§42-1204 and 42-1209.

Chapter 3. Responsibility of State and Local Agencies and Governmental Entities.

001. When a participant shows her or his authorization card to a state or local agency or governmental official when creating a new record and requests address confidentiality through the use of the substitute mailing address as it appears on the authorization card, the agency official creating a new record may make a file photocopy of the authorization card and shall immediately return the authorization card to the program participant.

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002. An agency shall accept the substitute mailing address unless the agency has received a written exemption from the Secretary pursuant to Neb. Rev. Stat. §42-1206.

003. In the event that an authorization card is lost or stolen, an emergency situation exists, or the state or local agency questions the validity of the authorization card, verification of a client's participation in the ACP may be made by calling the Office of the Secretary of State.

Annotation: Neb. Rev. Stat. §42-1206.

Chapter 4. Certification Expiration and Renewal.

001. The Secretary of State's Office shall notify participants 90 days before the expiration of the participant's certification.

002. A program participant may, within 60 days of the expiration date, renew her or his program certification by filing with the Address Confidentiality Program the following:

- (a) Her or his current authorization card;
- (b) A properly completed certification renewal form which shall contain all information required in the initial application by Chapter 2; and
- (c) A new authorization card form.

003. The program participant shall provide all the information required on the certification renewal form and date and sign the form.

004. If a participant chooses not to renew her or his certification, such participant assumes the responsibility of notifying state and local agencies of the change in status. Mail received by the Secretary of State's Office more than 30 days after the expiration of a participant's certification will be returned to the sender.

Annotation: Neb. Rev. Stat. §42-1204.

Chapter 5. Certification Withdrawal, Invalidation, and Termination.

001. A program participant may withdraw from program participation by submitting to the Address Confidentiality Program written notification of withdrawal and her or his current authorization card. Certification shall be terminated on the date of receipt of this notification.

002. If the Secretary of State's Office terminates a program participant's certification pursuant to Neb. Rev. Stat. §42-1205, the Address Confidentiality Program shall send written notification

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of the termination to the participant's last known mailing or residential address. The participant shall be advised of the right to appeal the termination.

002.01 A participant's certification shall be forfeited if the participant obtains a name change unless he or she applies to the Secretary for recertification and provides documentation of the legal name change.

002.02 The Secretary of State may cancel a participant's certification if there is a change in the mailing address from the one listed on the participant's application unless the participant notifies the Secretary by a signed writing within 30 days of the change of address.

002.03 The Secretary of State may cancel a participant's certification if mail forwarded to the program participant's address is returned as undeliverable.

002.04 The Secretary of State shall cancel the certification of a participant who applies to the program using false information.

003. In order to protest a termination, the program participant may request a hearing pursuant to the Administrative Procedures Act (Neb. Rev. Stat. Sec. 84-901 et. seq.)

004. A terminated participant or participant who withdraws from the Address Confidentiality Program assumes the responsibility of notifying state and local agencies of the change in status. Mail received by the Secretary of State's Office more than 30 days after the expiration of a participant's certification will be returned to the sender.

Annotation: Neb. Rev. Stat. §42-1205.

Chapter 6. Information Release to Law Enforcement Agency.

001. A request from a law enforcement agency for release of records in a program participant's file shall be made to the Address Confidentiality Program in writing, and shall contain the request date, the name of the program participant, the name and position of the officer requesting the information. The Secretary of State will only release records in a program participant's file to the Chief Commanding Officer of a law enforcement agency or the Chief Commanding Officer's designee provided that the designee is indicated in a writing signed by the Chief Commanding Officer.

Annotation: Neb. Rev. Stat. §42-1208.

Chapter 7. Information Release to Non-Law Enforcement.

001. The Secretary of State may only disclose information from a participant's file pursuant to a court order which specifically orders the disclosure of a particular program participant's address and the reasons therefore.

002. Upon the request of any person not requesting information pursuant to Chapter 6, Section 001 or Chapter 7, Section 001 the Secretary of State may only verify the participation in the Address Confidentiality Program of a specific participant by confirming or denying information supplied by a requester.

Annotation: Neb. Rev. Stat. §42-1208.

Chapter 8. Agency Use of Designated Address and Agency Exemption Request.

001. An agency requesting an exemption under Neb. Rev. Stat. § 42-1206, must provide in writing to the Secretary, identification of the statute, tax situs or administrative rule which demonstrates the agency's bona fide requirement and authority for the use of the actual address of an individual, and the purpose for which the actual address of the participant will be used. The Secretary of State shall make a determination in writing based upon the information provided and inform the agency of such determination.

Annotation: Neb. Rev. Stat. §42-1206.

Chapter 9. Service of Process.

001. Service of Process for program participants shall be made on the Office of the Secretary of State, Address Confidentiality Program by mailing two copies of the service of process documents to the substitute mailing address or by service on the Address Confidentiality Program at the Office of the Secretary of State, Suite 2300, State Capitol Building, Lincoln, NE 68509.

002. Following service on the Office of the Secretary of State, Address Confidentiality Program, a copy of the documents shall be sent by certified mail, return receipt requested, to the program participant's current mailing address shown on the records.

Annotation: Neb. Rev. Stat. §§42-1204 and 42-1210.

Chapter 10. Maintaining Protected Records Voter Information.

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001. The County Clerk or Election Commissioner shall notify the Secretary when an Address Confidentiality participant requests protected record status.

002. All records pertaining to a protected records voter shall be maintained in a manner ensuring that these records are accessible only to authorized personnel. A protected records voter shall not be included in any registered voter list, absentee ballot list, tape, label, or poll book. Information pertaining to a protected records voter shall not be publicly accessible regardless of the type of records management system except as provided by Neb. Rev. Stat. §42-1207.

Annotation: Neb. Rev. Stat. §42-1207.